

REMARKS

Claims 12-18 and 27-33 are pending in the application. Claims 12, 16, 27, 29, 31, and 32 were withdrawn from consideration, leaving claims 13-15, 17, 18, 30, and 33 subject to examination.

At the outset, Applicants note that, since the filing of the application, ownership of the application has changed. In light of this change, the present owners have only recently studied the application in detail, and have now identified very specific material that they would like to claim that is new and non-obvious over the prior art. Indeed, the claims now specify new and non-obvious chemical entities, which have been found to have unexpected, beneficial properties (see, e.g., Figures 2A and 2B of the present application). Because of this circumstance, Applicants respectfully request that the Examiner please reconsider the prior submitted Reply to Restriction Requirement, and permit further examination on the basis of the claims set forth above. These claims, which are drawn to very specific peptides, have been drafted with the cited prior art under close consideration, to enable straightforward and rapid prosecution.

The pending claims were rejected under 35 U.S.C. § 102(e) as being anticipated by Findeis et al., U.S. Patent No. 5,854,204, on the basis that this patent describes a peptide with the sequence KLVFF. The Findeis patent is not relevant to the newly added claims for the following reasons.

First, Applicants note that the present claims specify peptides of a particular formula, which does not allow for the presence of amino acid sequences in addition to those specifically listed in the claim (claim 34), or specify that the claimed peptides “consist of” the noted sequences (claim 35). Thus, peptides consisting of the sequence KLVFF, as taught by Findeis,

are not within the scope of the present claims. Further, Applicants note that the only peptides specified in the present claims that include the sequence KLVFF, which are His-His-Gln-Lys-Leu-Val-Phe-Phe-Ala-Glu and Val-His-His-Gln-Lys-Leu-Val-Phe-Phe-Ala, require the presence of other amino acids as well. These peptides, as noted above, are new and non-obvious chemical entities, which the present inventors have shown have unexpected, beneficial properties (see, e.g., Figure 2A of the present application).

Applicants have scrutinized the teachings of the Findeis patent, to ensure that the peptides of the present claims are not taught in the patent. Thus, Applicants respectfully submit that a rejection under § 102(e) should not be made with respect to the present claims.

In addition to the claims to the peptides (claims 34 and 35) and corresponding compositions (claims 36 and 37), Applicants submit for consideration method claims (claims 38-41) that depend from the peptide and composition claims. Consistent with M.P.E.P. § 821.04, which provides for the possibility of rejoinder of withdrawn process claims when product claims from which they depend are found allowable, Applicants request consideration of the methods claims as well.

CONCLUSION

Applicants submit that the claims are in condition for allowance, and such action is respectfully requested. If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

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